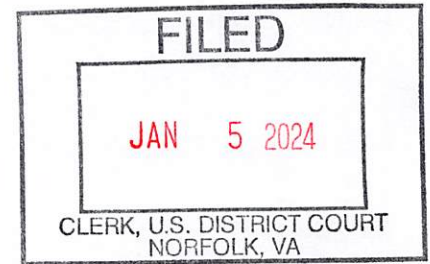


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division



UNITED STATES OF AMERICA,
Es. Rel.

HOANG CAM NGUYEN

4:24cv5

Plaintiff,

v.

Complaint for violations of the False Claims Act
31 U.S.C. §§ 3729 *et seq.*, AND THE VIRGINIA
FRAUD AGAINST TAXPAYERS ACT, Va.
Code § 8.01-216.3, *et seq.*, NDAA Section 827,41
U.S.C. §4712

DEPARTMENT OF VETERANS AFFAIRS,
HEATHER McDONALD,
DAVID BITONTI,
And
JOHN "JACK" MARTIN,

Defendants.

RELATOR'S COMPLAINT

Relator, Hoang Cam Nguyen, files this Complaint under seal pursuant to 31 U.S.C. § 3730 on behalf of the United States as well as on her own behalf pursuant to the *qui tam* provisions of the Federal False Claims Act (31 U.S.C. § 3729 *et se.*) ("FCA") and in support thereof alleges as follows:

INTRODUCTION AND BACKGROUND

1. Relator Hoang Cam Nguyen ("relator" or "Nguyen") brings this *qui tam* action to recover treble damages, civil penalties, costs and attorney's fees for damages to the United States. The damages occurred when defendants knowingly submitted false claims and/or records to the United States for payment and made various false statements and/or records to conceal payments

and overpayments from the United States in connection with their employment or alleged employment. These payments furthermore were utilized to avoid or decrease an obligation to repay money to the United States, by the use of various false records and statements which established a false claim. Defendants have submitted, or allowed to be submitted, false or fraudulent claims related to employment and contract relationships with the United States.

2. Relator is the original source of the information alleged herein, and has met all procedural requirements of 31 U.S.C. § 3730(b)(2) prior to filing this Complaint.

JURISDICTION AND VENUE

3. This action arises under the Federal False Claims Act, 31 U.S.C. §§ 3729 *et seq.* The Court has jurisdiction over this action pursuant to 31 U.S.C. § 1331. The Virginia Fraud Against Taxpayers Act found at Va. Code § 8.01-216.3 further prohibits the waste, fraud, and/or abuse alleged in this Complaint.

4. Venue is proper in this district pursuant to § 3732(a) of the FCA. At all times relevant, the defendants conducted substantial business in Virginia in this judicial district and the FCA violations complained herein occurred in this district and in this division. Additionally, venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1)-(2).

PARTIES

5. Relator Hoang Cam Nguyen (hereinafter “Relator”) is a resident of the Commonwealth of Virginia. Relator has been employed by the Department of Veterans Affairs Medical Center in Hampton, Virginia (hereinafter “VA Hampton”). During her employment she has served as a General Dentist for VA Hampton in its hospital facility.

6. Defendant United States Department of Veterans Affairs has multiple medical facilities throughout the United States. VA Hampton is one of those locations, and serves as a

hospital, dental practice, primary care facility, and long-term care facility for eligible veterans of the United States military. VA Hampton has an internal hierarchy of employees and supervisors in each department, to include the dental practice.

7. Defendant Heather McDonald (“McDonald”) is a General Dentist for VA Hampton.

8. Defendant David Bitonti (“Bitonti”) is an Oral Surgeon at VA Hampton.

9. Defendant John “Jack” Martin (“Martin”) is a General Dentist for VA Hampton.

**COUNT I: VIOLATION OF 18 U.S.C. § 371- CONSPIRACY
TO DEFRAUD THE UNITED STATES**

10. All prior paragraphs are reincorporated by reference.

11. Relator states that McDonald is paid her normal full-time salary of approximately \$250,000 per year plus benefits yet comes to work approximately one day out of every month.

12. This pattern of absence with full-time pay and benefits has continued for years without medical explanation or documented leave time.

13. Upon information and belief, McDonald has not seen dental patients in months or possibly years.

14. By way of example only, McDonald came to work nine days in March 2023 and eight days in April 2023. Upon information and belief, she was compensated for full-time employment and submitted no leave paperwork to support her absence.

15. Furthermore, McDonald was named “Acting Chief” despite her longstanding failure to perform dental services at VA Hampton, which made her eligible for bonus payments. McDonald has been caught sleeping on the job without reprimand.

16. Bitonti is an Oral Surgeon and compensated as such, but performs no oral surgery at VA Hampton.

17. Significant resources are wasted by the constant outsourcing of all oral surgery at the facility despite Bitonti's employment and training.

18. Furthermore, Bitonti has personally vouched for the dental training of dental residents' so as to claim they have observed and participated in the proper amounts of oral surgery hours and/or cases for them to satisfy the requirements of the commission on dental accreditation. Bitonti knew and knows that these records are false. Residents have never observed or performed oral surgery in the VA Hampton operating rooms, and these training records are fraudulent and/or fictitious.

19. Additionally, Bitonti, in his role as oral surgeon, has allowed surgical equipment and supplies to go unused and/or expired, creating a significant waste of government resources beyond even the existence of oral surgery facilities at VA Hampton.

20. Martin, a General Dentist, has a sealed file for sexual harassment related to his inappropriate contact with another employee. Martin comes to work sporadically, but is off numerous days a month for unconfirmed "reserve duty," and has minimal patient contact yet while being compensated as a full-time dentist with salary and benefits.

WHEREFORE, Relator respectfully requires that the Court enter a judgment against Defendants as follows: (a) that the United States be awarded single damages in the amount to be determined at trial but not less than five million dollars (\$5,000,000) for the fraud and false claims alleged herein, and the those damages be trebled pursuant to 31 U.S.C. § 3729; (b) that the civil penalty be imposed for each and every false claim presented to the United States and/or caused to be presented to the United States; and (c) the pre-and- post-judgment interest be awarded, along with relator's reasonable attorney's fees, costs, and expenses incurred in the prosecution this case; and (d) that the relator be awarded the maximum percentage of the government's recovery allowed

pursuant to the False Claims Act; additionally, relator requests any alternative or supplemental relief the Court may deem appropriate. Further, the Relator demands a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues so triable.

For Relator Hoang Cam Nguyen:

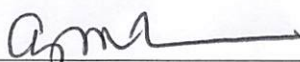

Of Counsel

Emily M. Munn, Esq. (VSB No.: 46390)
Nicholas R. Hobbs, Esq. (VSB No.: 71083)
SCHEMPF & WARE, PLLC
4000 George Washington Memorial Highway
Yorktown, Virginia 23692
Telephone: (757) 240-4000
Email: emunn@4000law.com
nhobbs@4000law.com

CERTIFICATE OF SERVICE

I hereby certify that on January ⁵ 2, 2024 I transmitted a copy of the Relator's Complaint via U.S. mail and electronic mail to the following:

Jessica Aber, Esq.
United States Attorney for the Eastern District of Virginia
One City Center
11815 Fountain Way
Suite 200
Newport News, Virginia 23606
Jessica.aber@usdoj.gov


Emily M. Munn, Esq. (VSB No.: 46390)
Nicholas R. Hobbs, Esq. (VSB No.: 71083)
SCHEMPF & WARE, PLLC
4000 George Washington Memorial Highway
Yorktown, Virginia 23692
Telephone: (757) 240-4000
Email: emunn@4000law.com
nhobbs@4000law.com